

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

October 24, 2008

Board of Land  
and Natural Resources  
Honolulu

Request for Approval for Delegation of Signature Authority to the DLNR Chairperson for  
Select Special Activity Permits as Authorized under 187A-6, Hawaii Revised Statutes

Submitted herewith for your consideration and approval is a request for delegating signature authority to the Department of Land and Natural Resources chairperson for select special activity permits. Section 187A-6, Hawaii Revised Statutes provides that the Department may issue permits no longer than one year to any person to take aquatic life, possess or use fishing gear, or engage in any feeding, watching, or other such non-consumptive activity related to aquatic resources otherwise prohibited by law for scientific, educational, management, or propagation purposes, subject also to chapter 195D and any other restrictions the Department deems desirable.

Historically, such permits have been sought by University researchers and their students, professional biologists, consultants, aquariums, even public school teachers to either collect aquatic life otherwise considered unlawful, or to use gear otherwise considered unlawful, primarily for the purposes of study or education. The Division of Aquatic Resources (DAR) routinely processes about 120 such permits each year. DAR staff reviews each application for impact and makes recommendations to conserve resources as well as to minimize impacts to those resources. Among other permit provisions, DAR usually requires a report at the end of the permit period to document the efforts of the collections or activities.

The DAR feels that in many instances, the proposed activities do not require the scrutiny of the Board, and that for relatively minor, non-destructive activities, approval can be delegated to the Department Chairperson. The DAR proposes certain instances whereby this delegation of signature authority from the Board to its Chairperson could be applicable, and is attached for your consideration.

This request shall not apply to any permit application for activities in the Northwestern Hawaiian Islands.

In an effort to expedite the processing of select permits, the Department is recommending that the authority for signature approval be delegated to the DLNR chairperson. The Department may still wish to bring certain permit applications before the Board for review and decision in cases where the requests are complex and that may benefit from the entire Board's review.

RECOMMENDATION:


"That the Board approve the delegation of signature authority to the DLNR Chairperson for select special activity permits under section 187A-6, Hawaii Revised Statutes, as listed."

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Polhemus', with a long horizontal flourish extending to the right.

DAN POLHEMUS  
Administrator

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read 'Laura H. Thielen', with a large, stylized initial 'L' and 'H'.

LAURA H. THIELEN  
Chairperson

**Delegation of Selected Permitting Approval Authority for**  
**Activities Conducted under Special Activity Permits**  
**As Authorized by 187A-6, HRS**

The Department of Land and Natural Resources through its Division of Aquatic Resources (DAR) recommends approval of special activity permits be delegated to the Chairperson of the Department of Land and Natural Resources, after discussion and recommendation of approval by DAR, for the following relatively minor , non-destructive activities:

1. Collections of aquatic life (using either gear otherwise considered unlawful, or for regulated species, the possession of which would otherwise be considered unlawful) for public, private, charter schools (K-12) in Hawaii for classroom aquaria. Regulated species shall be capped at 10 specimens per permit.
2. Use of no more than 5 hand-held small-meshed nets or traps to take unregulated species.
3. Amendments to approved valid special activity permits where the amendment involves the addition of assistants, or the take of regulated species of ten or less specimens in total, not previously enumerated as part of the original application.
4. Exemption from bottomfish vessel registration or commercial marine license requirements when vessels are engaged in scientific research, either as part of a federal grant or project, or as part of an official government agency study.
5. Exemption for vessels engaged in research for using plankton tows or stationary/floating collectors, when the material used in the construct of a plankton net or floating collectors would violate current minimum net mesh size laws, but its use is intended to collect unregulated species.
6. Recognized Hawaii institutions where permits are of a perennial nature (continuous, year after year) for scientific research purposes, provided DAR agrees to the amounts of specimens as reasonable, and is evaluated as non-destructive, and provided that any subsequent amendment with the exception of #3, above, shall not be approvable solely by the chairperson.
7. Take of federally listed threatened or endangered species, provided that the applicant demonstrate proof of possession of a valid federal permit for identical (proposed use) purposes, and that it be limited to scientific purposes, or to enhance the propagation or survival of the affected species .

For the purposes of this delegation, non-destructive activity shall mean that the activity is not conducted to intentionally sacrifice the collected organism, but to retain it as living for observation, and/or to sample the organism that does not result in the outright death of the organism. Furthermore, the death of a regulated species shall not be used as a sole concern and shall be considered relative to the total take of such species including recreational, subsistence, and commercial harvests.

**STATE OF HAWAII**  
**Department of Land and Natural Resources**

By

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Laura H. Thielen  
Chairperson

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Date